Colchester Public Schools

CABE-RECOMMENDED REGULATION (NEW)

4112.5R

PERSONNEL

EMPLOYMENT CHECKS - ADMINISTRATIVE REGULATIONS

Security Check/Fingerprinting

Each person hired by the school system shall be required to submit to state and national criminal record checks. In order to process such record checks, the following procedure will be followed:

1. No later than ten calendar days after the Superintendent or his/her designee has notified job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will supply the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted by the Regional Service Center. This packet shall also contain all documents and materials necessary for the Regional Service Center to submit the completed fingerprints to the State Police Bureau of Identification for the processing of state and national criminal record checks.

2. No later than ten calendar days after the Superintendent or his/her designee has provided the successful job applicant with the fingerprinting packet, the applicant must arrange to be fingerprinted. Failure of the applicant to have his/her fingerprints taken within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.

3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks.

4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the record check and will provide an opportunity for the affected applicant/employee to respond to the results of the criminal record check.

5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, the falsification or omission of any information on a job application or in a job interview, including, but not limited to information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment or discharge from employment.

6. Each applicant for a position involving direct student contact is required to make three disclosures to

the Board for a position involving direct student contact. The applicant must:

a. Provide the District with contact information for current and former employers if they were education employers or the employment otherwise involved contact with children. The contact information must include each employer's name, address, and telephone number.
b. Provide a written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the SDE-designed standardized form that interviewing education employers send. The authorization also must consent to and authorize SDE to disclose information and related records to requesting education employers and release such former employers and SDE from any liability that may arise from such disclosure or release.
c. Give a written statement about whether he or she:

    i. was the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency, or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;

    ii. was disciplined or asked to resign from a job or resigned from or otherwise separated from any job while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (DCF), or an allegation of sexual misconduct was pending or under investigation or because of an allegation substantiated by DCF of abuse or neglect or sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or

    iii. had a professional or occupational license or certificate suspended or revoked or ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because of an allegation substantiated by DCF of abuse or sexual misconduct or a conviction for abuse or sexual misconduct.

    iv. has, at the time of application, any criminal charges pending to state the charges and the court in which such charges are pending.

7. The District is prohibited from offering employment for any position involving direct student contact until the following has occurred:

    a. the applicant has complied with the above disclosure requirements;
    b. the District has reviewed, either through written or telephone communication, the applicant's employment history on the standardized form filled out by current and past employers, which current or former employers must complete and return within five business days of receipt; and
    c. the District has requested information from SDE about the applicant's eligibility status for a position requiring a certificate, authorization, or permit; previous disciplinary action for a substantiated finding of abuse or neglect or sexual misconduct; and notice of a criminal conviction or pending criminal charges against the applicant.

8. A good faith effort to reach an applicant's current and previous employers shall be made. A "good faith effort" is one requiring no more than three phone calls on three separate days.

9. The District may request additional information from an applicant's current or former employers relating to any response the applicant listed on the standardized SDE form, to which the applicant must respond within five business days of receipt. Immunity is provided from criminal and civil liability to any employer who provides such information, as well as to SDE, as long as the information supplied is not knowingly false.

10. The information available to the Board from SDE about an applicant may include:

    a. any information about the applicant's eligibility for employment with such education employer in a position that requires a certificate, authorization, or permit;

    b. whether SDE knows if the applicant was disciplined for a finding of abuse or neglect or sexual misconduct, and any information related to the finding; and

    c. whether SDE has been notified that the applicant has been convicted of a crime or of pending criminal charges against the applicant and any information about such charges.

11. Applicants for substitute teaching positions must also fulfill the disclosure requirements as listed above. The District will also request information from the applicant's prior employers and SDE (in the same manner required for other applicants).

12. Adult education teachers and substitute teachers, if they are continuously employed by the district, do not have to be refingerprinted after fulfilling the initial requirement.

13. The District shall maintain a list of individuals suitable to work as substitute teachers. Only those on the list may be hired as substitute teachers. An individual remains on the list as long as (1) he or she is continuously employed by the District as a substitute teacher and (2) District does not have any knowledge that would cause the person to be removed from the list.

14. School nurses and nurse practitioners appointed by the Board or under contract with the Board shall also submit to a criminal history check pursuant to C.G.S. 29-17a.

15. Student teachers placed in District schools as part of completing preparation requirements for the issuance of an educator certificate shall also submit to a criminal history check. The criminal history check shall be done prior to being placed in a school for clinical experiences such as field experiences, student teaching or internship. Candidates are required to be fingerprinted at one of the RESCs and not through local police stations or the school district. The District is required to notify the State Board of Education if notice is received that a student teacher has been convicted of a crime. Student teachers must also submit to a records check of the Department of Children and Families Child Abuse and Neglect Registry.

16. Each applicant for a certified position must submit to a records check of the Department of Children and Families (DCF) Child Abuse and Neglect Registry established pursuant to C.G.S. 17a-101k before the applicant may be hired. The Superintendent or his/her designee shall request the required records check of DCF in accordance with the procedures established by DCF.

17. Each applicant for a non-certified position must submit to a records check of the Department of Children and Families (DCF) Child Abuse and Neglect Registry established pursuant to C.G.S. 17a-101k before the applicant may be hired. The Superintendent or his/her designee shall request the required records check of DCF in accordance with the procedures established by DCF.

18. Contractors that apply for positions involving direct student contact are required to perform the checks on their employees who would fill such positions. These checks are similar to the ones the District must perform on applicants.

    a. A contractor's employee must fulfill the three disclosure requirements that a regular, direct applicant for such a position must fulfill.
    b. The contractor must contact any current or former employers that were education employers and request, by telephone or in writing, any information about whether there was a finding of abuse or neglect or sexual misconduct against the employee, and which the employer must report if there is one.
    c. Should the contractor receive any information indicating such a finding or otherwise has knowledge of one, he or she must immediately forward, either by telephone or in writing, the information to the District.
    d. The District must determine whether the employee may work in a position involving direct student contact at any of its schools.
    e. It is not considered a breach of contract for the District to determine that the contractor's employee is forbidden to work under any such contract in such a position.

19. The District shall notify SDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct.

20. The District is required to provide upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of the Board or a contractor's employee.

21. The Board is prohibited from entering into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement, or any other agreement or take any action that results in any of the following outcomes:

    a. has the effect of suppressing information about an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
    b. affects the education employer's ability to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
    c. requires the district to expunge information about an allegation or finding of suspected abuse or neglect or sexual misconduct from any documents it maintains, unless after investigation the allegation is dismissed or found to be false.

22. The District may employ or contract with an applicant for up to 90 days while awaiting the complete review of their application information, as long as the following has occurred:

    a. the applicant has submitted to the District the three required disclosures,

b. the District has no information about the applicant that would disqualify him or her from employment, and
c. the applicant affirms that he or she is not disqualified from employment with the education employer.

23. Applicants who knowingly provide false information or knowingly fail to disclose information that is statutorily required to the District is subject to discipline by the District. Such discipline may include denial of employment or termination of a certified employee's contract.

    A District student, employed by the District or a person employed by the Board as a teacher for a non-credit adult class or adult education activity (as defined in C.G.S. 10-67) who is not required to hold a teaching certificate, pursuant to C.G.S. 10-145b, as amended by PA 18-51, is exempt from the fingerprinting requirement.

Criminal Justice Information*

Policies #4112.5P and #4112.51P and applicable law require applicants for employment in the District to submit to state and national criminal record checks. All results for such background checks and accompanying information is considered "Criminal Justice Information (CJI)." Such information is to be maintained, used and disclosed in compliance with this administrative regulation. These regulations apply to all CJI that the District possesses or controls in any form or format, including CJI contained in correspondence, documentation or reports of the District.

Definitions

Criminal Justice Information (CJI) means the results of any state or federal criminal record checks of an applicant for employment in the district, volunteer, employee, or contractor and all copies thereof.

Criminal Justice Information Officer (CJI Officer) means the individual appointed by the Superintendent to be responsible for the use, disclosure, and safeguarding of CJI in the District. This individual serves as the District's primary point of contact for CJI matters and these regulations.

Permitted Individual means an individual designated by the Superintendent, or his/her designee, who may access CJI. Such individuals may include, but are not limited to, human resources personnel, and certain administrative staff.

Request and Use of Criminal Justice Information

An employee, contractor, applicant, volunteer, will be asked by the District for CJI as permitted or required by applicable policy and/or law.

The Superintendent or his/her designee shall designate those individuals who will be considered "Permitted Individuals" for purposes of these regulations. CJI may not be accessed by any other member of the District staff or be used for any reason without obtaining prior written approval from the CJI Officer. CJI used by the "Permitted Individual" is limited to that permitted or required by law or District policy.

"Permitted Individuals" must satisfy applicable legal screening requirements prior to access to CJI, including the following:

1. Permitted Individuals who are Connecticut residents shall be screened by the District through a Connecticut and national fingerprint-based record check after designations as a Permitted Individual.
2. Permitted Individuals who are not Connecticut residents shall be subject to a District state and national fingerprint-based record check and follow FBI guidance pertaining to additional screening requirements.

The Connecticut Department of Emergency Services and Public Protection may be consulted by the CJI Officer pertaining to the execution of the above cited screening requirements.

A Permitted Individual's access to CJI may be terminated with or without cause at the discretion of the Superintendent, CJI Officer, or their respective designees. Upon termination of the Permitted Individual's employment in or contract with the District, such individual's access to CJI is to be immediately terminated. Reassignment or modification of a Permitted Individual's professional responsibilities is considered cause to reconsider CJI access.

Maintenance and Safeguarding of Criminal Justice Information (CJI)

The District will designate the locations, files and information systems where CJI is to be maintained. These controlled areas, locked when unattended, are limited to Permitted Individuals and other authorized personnel. If not possible to reasonably restrict access, all CJI is to be maintained in encrypted format in a manner consistent with legal requirements and industry standards.

The written approval of the CJI Officer is required in order to remove CJI from a controlled area. The CJI Officer must develop a protocol to ensure the protection of CJI while being transported and while out of the controlled area.

CJI that is maintained in paper format must be kept in a physically secure location, with a posted notice of restricted access to such records. An access log or sign-in sheet is to be used to record access to paper records.

The Criminal Justice Information Services (CJIS) Security Policy contains safeguards for CJI records maintained in electronic format which the District shall comply. These safeguards include, but are not limited to, maintaining CJI on secure electronic systems and media; positioning information systems in a manner to prevent unauthorized individuals access and viewing CJI; storing electronic media containing CJI in a secure location; instituting access controls to limit access to Permitted Individuals; validating and authenticating information system users accessing CJI; developing protocols for configuration management and providing necessary access for system modifications and maintenance; providing the capability to detect and protect against threats to the integrity of CJI; developing parameters for auditing electronic systems containing CJI; and instituting media protection policies and procedures.

Disclosure of CJI by Permitted Individuals

CJI may be disclosed by Permitted Individuals to (1) District staff upon written approval of the Superintendent, CJI Officer or their respective designees when such disclosure is viewed as reasonably necessary for the performance of District function or policy or consistent with applicable law; (2) third-party individuals/entities when such disclosure has been approved by the Superintendent or CJI Officer or their

respective designees, when consistent with applicable law; or as otherwise required or permitted by law. All such disclosures shall be logged.

Security Incident Response

"Security Incident" is the actual or suspected acquisition, access, use, or disclosure of CJI in a manner not permitted by these regulations or applicable law. A Security Incident must be reported immediately to the CJI Officer, who will investigate, collect relevant evidence and respond to all such incidents.

The CJI Officer is to document each security incident including the District's response, steps taken to mitigate harm to the affected individuals and changes, as necessary to District policies and procedures to avoid a reoccurrence of such incidents.

Security incidents are to be reported in writing to the District, regarding an individual's CJI that may have been accessed, acquired or disclosed during the Security Incident. Affected individuals and/or appropriate government agencies will be notified by the District as required by law or as the District determines appropriate.

Record Retention, Disposal and Destruction of CJI

CJI shall be maintained by the District in conformity with applicable record retention laws. Records containing CJI shall be stored for extended periods only if they are key elements for the integrity and/or utility of case files and/or criminal record files. Any audit records and transaction logs are to be maintained for one year. All records containing CJI are to be destroyed when the District is no longer required to keep CJI on file.

CJI containing paper records shall be disposed of as to make them unreadable and unable to be reconstructed, by shredding or incineration of such records. Electronic media containing CJI shall be destroyed utilizing a method that renders the CJI unreadable, indecipherable or unable to be reconstructed. Media destruction is to be done only by authorized personnel and witnessed and the method used documented.

Training

District staff with access to CJI shall initially be trained in the use, disclosure and safeguarding of such information and no less than biennially after the initial training.

(cf. 4112.51/4212.51 - Employment/Reference Checks)

Legal Reference: Connecticut General Statutes

10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissed. (as amended by PA 01-173, PA 04-181, June 19 Special Session, PA 09-1, PA 11-93, PA 16-67, PA 18-51, and PA 19-91)

17a-101k Registry of findings of abuse or neglect of children maintained by Commissioner of Children and Families. Notice of finding of abuse or neglect of child. Appeal of finding. Hearing

procedure. Appeal after hearing. Confidentiality. Regulations.

29-17a Criminal history checks. Procedure. Fees.

PA 16-67 An Act Concerning the Disclosure of Certain Education Personnel Records.

PA 16-83 An Act Concerning Fair Chance Employment

Criminal Justice Information Services (CJIS) Security Policy, Version 5.4, U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, October 6, 2015.

*****This section of the administrative regulation pertaining to Criminal Justice Information (CJI) is based upon information originally developed by the law firm of Shipman and Goodwin.

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COLCHESTER PUBLIC SCHOOLS
Colchester, Connecticut